

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CASCADE YARNS, INC.,

Plaintiff,

v.

CRAFTS AMERICANA GROUP, INC.,
doing business as KNIT PICKS,

Defendant.

Case No.

**COMPLAINT FOR TRADEMARK
INFRINGEMENT, FALSE DESIGNATION
OF ORIGIN, UNFAIR COMPETITION,
AND TRADEMARK DILUTION**

JURY TRIAL DEMANDED

COMES NOW Cascade Yarns, Inc. ("Cascade"), by and through counsel, and files this
Complaint and in support thereof alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Cascade is a Washington corporation with its principal place of business in
Tukwila, Washington. Cascade is one of the nation's finest purveyors of yarns and sells its
products through specialty retailers and boutiques throughout the United States.

2. Defendant Crafts Americana Group, Inc. ("defendant") is a Washington
corporation with its principal place of business in Vancouver, Washington. Defendant does
business as "Knit Picks" selling yarn and related products to consumers via on-line and print
catalogs.

COMPLAINT FOR TRADEMARK INFRINGEMENT,
FALSE DESIGNATION OF ORIGIN, UNFAIR
COMPETITION, AND TRADEMARK DILUTION - 1
Case No.

SQUIRE, SANDERS & DEMPSEY L.L.P.
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CALIFORNIA 94111-3492
415.954.0200 FAX: 415.393.9887

3. This is an action for trademark infringement and false designation of origin arising under the Lanham Trademark Act of 1946, 15 U.S.C. §§ 1051, *et seq.*, and for unfair competition and unfair and deceptive acts and practices under the laws of the state of Washington, including Washington's Unfair Business Practices/Consumer Protection Act, RCW 19.86.020, *et seq.*, and for trademark dilution under the laws of the state of Washington, including RCW 19.77.010, *et seq.*

4. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and 1367.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) because defendant resides in this district, provides services and sells products directly to customers that reside in this district, and a substantial part of the events and omissions giving rise to the claims herein occurred in this district.

BACKGROUND

6. Plaintiff owns the registered trademark CASCADE 220 for “yarn; wool yarn” in international class 23. A copy of the certificate of registration no. 3,207,766 is attached hereto as Exhibit 1 and made a part hereof by this reference. CASCADE 220 is inherently distinctive and, in any event, as a result of plaintiff’s long, continuous and exclusive use has acquired secondary meaning associated by customers and the public with plaintiff and its yarn products.

7. Plaintiff owns the registered trademark 220 SUPERWASH for “yarn; wool yarn” in international class 23. A copy of the certificate of registration no. 3,205,766 is attached hereto as Exhibit 2 and made a part hereof by this reference. 220 SUPERWASH is inherently distinctive and, in any event, as a result of plaintiff’s long, continuous and exclusive use has acquired secondary meaning associated by customers and the public with plaintiff and its yarn products.

8. Plaintiff also owns the registered trademark CASCADE YARNS for “yarn” in international class 23. A copy of the certificate of registration no. 3,129,942 is attached hereto as Exhibit 3 and made a part hereof by this reference. CASCADE YARNS is inherently distinctive

1 and, in any event, as a result of plaintiff's long, continuous and exclusive use has acquired
2 secondary meaning associated by customers and the public with plaintiff and its yarn products.

3 9. Plaintiff has been using CASCADE 220 and CASCADE YARNS in interstate
4 commerce in connection with yarn since at least 1988. Plaintiff has used 220 SUPERWASH
5 interstate commerce in connection with yarn since at least 2004.

6 10. Plaintiff enjoys a preeminent reputation in the industry. It achieved this reputation
7 through its exemplary customer service and its commitments to quality and value. Plaintiff has
8 invested considerable resources in promoting its products through advertising and other means.
9 As such, plaintiff has developed valuable goodwill in its CASCADE 220, 220 SUPERWASH and
10 CASCADE YARNS trademarks.

11 11. Internet users typically use search engines to locate websites relevant to an inquiry
12 by entering search terms into a search field. For example, customers and potential customers
13 looking for plaintiff's products may type "Cascade," "Cascade Yarn(s)," "Cascade 220," or some
14 variation thereof into a search engine such as Yahoo! (www.yahoo.com) or Google
15 (www.google.com).

16 12. The search engine then uses the word or phrase to find websites that include terms
17 that are the same or similar to the search terms. Internet search engines such as Yahoo! and
18 Google use proprietary algorithms to identify and sort relevant websites in what is often referred
19 to as a "natural" search.

20 13. Internet search engines such as Yahoo! and Google also engage in advertising
21 sales in which the search engines sell search keywords or keyword triggers to advertisers. A
22 business can purchase a keyword trigger that causes an advertisement for its business to appear
23 when a user types in the keyword that business purchased. The advertisements then appear
24 directly in connection with or as sponsored links directly above or to the side of the natural search
25 results. In this way, purchasing keyword triggers allows a business to target potential customers
26 with certain interests by causing the business's advertisements to appear in response to search

1 terms typed into the search engine by those potential customers that match keyword triggers
2 purchased by the advertiser.

3 14. Because clicking on a sponsored link results in a visit to the advertiser's retail
4 website and a potential sale for the advertiser, the advertisers pay the search engine for each time
5 an internet user clicks on the sponsored links.

6 15. Internet search engines also offer additional benefits to advertisers by offering
7 increased traffic to on-line retail stores with product searches. A business can increase website
8 traffic and thereby increase sales by requesting that its products appear on the product search.

9 16. The internet search engines sell keyword triggers and allow product search listings
10 without distinguishing between trademarked and non-trademarked terms. Search engines sell
11 plaintiff's registered trademarks, including its CASCADE 220, 220 SUPERWASH and/or
12 CASCADE YARNS trademarks, as keyword triggers. Search engines allow advertisers to list
13 plaintiff's registered trademarks, including its CASCADE 220, 220 SUPERWASH and/or
14 CASCADE YARNS trademarks, product listings.

15 17. On information and belief, defendant purchased or requested plaintiff's trademark
16 term CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS or some variations thereof
17 as keyword triggers or product listings from one or more search engine providers for the purpose
18 of directing potential customers to defendant's retail website. Thus, for example, when a
19 consumer enters plaintiff's CASCADE YARNS mark as a search term into Yahoo!'s search
20 engine, defendant's advertisement will appear at the top of the search results page with a title of
21 "Cascade Yarn."

22 18. When a user clicks on the titles of defendant's advertisements, the user is taken to
23 the KnitPicks.com retail website.

24 19. Defendant's retail website offers the web user the opportunity to purchase yarn
25 and related products from defendant.

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1 20. Defendant has never offered Cascade's products for sale. Instead, defendant uses
2 plaintiff's CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS trademarks to
3 generate traffic to defendant's competing retail website from individuals who were searching for
4 Cascade's products, website, or the website of one of Cascade's authorized retailers, with the
5 likely intent to purchase Cascade's products from an authorized retailer.

6 21. Defendant's use of plaintiff's CASCADE 220 trademark as a keyword trigger or a
7 product listing is a use in commerce.

8 22. Defendant's use of plaintiff's 220 SUPERWASH trademark as a keyword trigger
9 or a product listing is a use in commerce.

10 23. Defendant's use of plaintiff's CASCADE YARNS trademark as a keyword trigger
11 or a product listing is a use in commerce.

12 24. Defendant's use of plaintiff's CASCADE 220 trademark, 220 SUPERWASH
13 trademark and/or its use of plaintiff's CASCADE YARNS trademark as a keyword trigger or a
14 product listing is likely to and does cause consumer confusion. Customers searching for
15 Cascade's products are directed to defendant's retail website, which is neither affiliated with nor
16 authorized by plaintiff to use its CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS
17 trademarks. Users may assume that defendant's retail website is authorized to use plaintiff's
18 CASCADE 220 trademark, its 220 SUPERWASH trademark, its CASCADE YARNS trademark,
19 or is affiliated with or may offer plaintiff's products. Furthermore, defendant offers a competitive
20 line of products for sale. Consumers may assume that defendant's products have the same
21 qualities and attributes as plaintiff's products sold under the CASCADE 220 trademark, sold
22 under the 220 SUPERWASH trademark, sold under the CASCADE YARNS trademark, and/or
23 are sponsored or licensed by or affiliated with plaintiff.

24 25. Even if consumers realize after arriving at defendant's website that they are not at
25 a website that sells Cascade's products, defendant's use of plaintiff's CASCADE 220, 220
26 SUPERWASH and/or CASCADE YARNS trademarks captures consumers' initial attention and

1 diverts them to defendant's website, where they may purchase defendant's competitive products.

2 26. Defendant seeks and receives a direct material benefit from its use of plaintiff's
3 CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS trademarks as a keyword trigger
4 or a product listing, by receiving more visits from customers who may consider purchasing or
5 who purchase their products, which are in direct competition with plaintiff's products.

6 **FIRST CLAIM FOR RELIEF**

7 **(Trademark Infringement -- 15 U.S.C. § 1114(1)(a))**

8 27. Plaintiff realleges and incorporates by reference paragraphs 1 through 26 above.

9 28. Defendant's use of plaintiff's CASCADE 220, 220 SUPERWASH and
10 CASCADE YARNS trademarks as keyword triggers or product listings is a use in commerce of
11 plaintiff's registered CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS trademarks
12 in connection with defendant's goods that is likely to cause purchasers and potential purchasers
13 confusion or mistake, or to deceive purchasers and potential purchasers.

14 29. Even if consumers are not ultimately confused or deceived as to the source of
15 defendant's goods, defendant's use of plaintiff's CASCADE 220, 220 SUPERWASH and/or
16 CASCADE YARNS trademarks is calculated to capture the initial attention of consumers and
17 divert them to defendant's website, where they may purchase defendant's products.

18 30. Defendant is thus liable under 15 U.S.C. § 1114(1)(a) for infringement of
19 plaintiff's registered CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS
20 trademarks.

21 31. Pursuant to 15 U.S.C. § 1117(a), plaintiff is entitled to recover defendant's profits
22 and the costs of this action.

23 32. Because defendant's use of plaintiff's registered CASCADE 220, 220
24 SUPERWASH and/or CASCADE YARNS trademarks keyword triggers or product listings was
25 intentional and in bad faith, the court should enter an award of enhanced damages under 15
26 U.S.C. § 1117(b) in an amount up to three times the actual damages.

1 46. Cascade is entitled to recover its actual damages, treble damages, costs, and
2 reasonable attorneys' fees to the full extent allowable under applicable state law.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Trademark Dilution -- RCW 19.77.160)**

5 47. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 above.

6 48. Plaintiff's CASCADE 220 trademark for yarn products is famous and has
7 distinctive quality in the state of Washington.

8 49. Plaintiff's 220 SUPERWASH trademark for yarn products is famous and has
9 distinctive quality in the state of Washington.

10 50. Plaintiff's CASCADE YARNS trademark for yarn products is famous and has
11 distinctive quality in the state of Washington.

12 51. Defendant's use of CASCADE 220 dilutes the distinctive quality of plaintiff's
13 CASCADE 220 trademark.

14 52. Defendant's use of 220 SUPERWASH dilutes the distinctive quality of plaintiff's
15 220 SUPERWASH trademark.

16 53. Defendant's use of CASCADE YARNS dilutes the distinctive quality of plaintiff's
17 CASCADE YARNS trademark.

18 54. On information and belief, defendant willfully intended to trade on Cascade's
19 reputation in violation of RCW 19.77.160.

20 55. As a direct and proximate result of defendant's use, plaintiff's CASCADE 220,
21 220 SUPERWASH and/or CASCADE YARNS trademarks are being diluted and plaintiff is
22 suffering irreparable injury to its goodwill, reputation, business, and property and will continue to
23 suffer such irreparable injury until defendant is enjoined from using the CASCADE 220, 220
24 SUPERWASH and/or CASCADE YARNS trademarks in any form in its business operations.

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1 56. Cascade is entitled to recover defendant's profits, actual damages, treble damages,
2 costs, and reasonable attorneys' fees to the full extent allowable under applicable state law.

3 **JURY DEMAND**

4 57. Plaintiff respectfully demands a jury trial on all issues triable to a jury.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF Cascade Yarns, Inc. respectfully prays for judgment as
7 follows:

8 1. That defendant be directed to account and pay to plaintiff all damages suffered by
9 plaintiff as a result of defendant's wrongful conduct described above including for defendant's
10 infringement of plaintiff's registered CASCADE 220, 220 SUPERWASH and/or CASCADE
11 YARNS trademarks and unfair competition, as well as to account for all gains, profits and
12 advantages derived by such wrongful conduct;

13 2. That such damages caused by defendant be trebled in accordance with 15 U.S.C.
14 § 1117 because its unfair acts were done intentionally and therefore warrant enhanced damages
15 and/or punitive damages as the Court may find appropriate;

16 3. For a preliminary and permanent injunction pursuant to 15 U.S.C. § 1116
17 restraining Crafts Americana Group, Inc., its affiliates, franchises, and subsidiaries expressly
18 including Knit Picks, its officers, directors, agents, servants, employees and all persons in active
19 concert or participation with it who receive actual notice of the injunction by personal service or
20 otherwise (collectively referred to as "Crafts Americana" in this Prayer for Relief), from doing,
21 abiding, causing, aiding or abetting any of the following:

22 a. Using plaintiff's CASCADE 220 trademark, its 220 SUPERWASH, its
23 CASCADE YARNS trademark, or any colorable imitation or confusingly similar variation of
24 plaintiff's CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS trademarks as
25 keyword triggers and/or product listings;

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b. Making any other infringing use of plaintiff's CASCADE 220, 220 SUPERWASH and/or CASCADE YARNS trademarks; and

c. Otherwise competing unfairly with plaintiff in any manner;

4. That Crafts Americana be directed to file with the Court and serve within thirty (30) days after the service of an injunction a report in writing, under oath, setting forth in detail the manner and form in which Crafts Americana complied with the injunction;

5. That Cascade be awarded actual damages, treble damages, lost profits and attorneys' fees as permitted by Washington's Unfair Business Practices/Consumer Protection Act, RCW 19.86;

6. That Cascade be awarded its attorneys' fees and costs under the provisions of 15 U.S.C. § 1117;

7. That Cascade be awarded prejudgment interest on any judgment amount;

8. That Cascade be awarded post-judgment interest on the foregoing sums at the maximum rate permitted by law from the date judgment is entered until paid; and

9. That Cascade be awarded such other and further relief as the court deems equitable, just and appropriate.

DATED: December 30, 2009

SQUIRE, SANDERS & DEMPSEY L.L.P.

By: 
Robert J. Guite, WSBA No. 25753

Attorneys for Plaintiff
CASCADE YARNS, INC.

SANFRANCISCO/330839.3

COMPLAINT FOR TRADEMARK INFRINGEMENT,
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ONE MARITIME PLAZA, SUITE 300
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EXHIBIT 1

Int. Cl.: 23

Prior U.S. Cl.: 43

United States Patent and Trademark Office

Reg. No. 3,207,766

Registered Feb. 13, 2007

**TRADEMARK
PRINCIPAL REGISTER**

CASCADE 220

CASCADE YARNS, INC. (WASHINGTON CORPORATION)

1224 ANDOVER PARK EAST

TUKWILA, WA 98188

FOR: YARN; WOOL YARN, IN CLASS 23 (U.S. CL. 43).

FIRST USE 1-1-1988; IN COMMERCE 1-1-1988.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F) AS TO "220".

SER. NO. 78-711,794, FILED 9-13-2005.

KATHLEEN M. VANSTON, EXAMINING ATTORNEY

EXHIBIT 2

Int. Cl.: 23

Prior U.S. Cl.: 43

Reg. No. 3,205,309

United States Patent and Trademark Office

Registered Feb. 6, 2007

**TRADEMARK
PRINCIPAL REGISTER**

220 SUPERWASH

CASCADE YARNS, INC. (WASHINGTON CORPORATION)

1224 ANDOVER PARK EAST

TUKWILA, WA 98188

FOR: YARN; WOOL YARN, IN CLASS 23 (U.S. CL. 43).

FIRST USE 3-1-2004; IN COMMERCE 3-1-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "220", APART FROM THE MARK AS SHOWN.

SER. NO. 78-712,761, FILED 9-14-2005.

CAROLYN CATALDO, EXAMINING ATTORNEY

EXHIBIT 3

Int. Cl.: 23

Prior U.S. Cl.: 43

Reg. No. 3,129,942

United States Patent and Trademark Office

Registered Aug. 15, 2006

**TRADEMARK
PRINCIPAL REGISTER**

CASCADE YARNS

CASCADE YARNS, INC. (WASHINGTON COR-
PORATION)
1224 ANDOVER PARK EAST
TUKWILA, WA 98188

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "YARN", APART FROM THE
MARK AS SHOWN.

FOR: YARN, IN CLASS 23 (U.S. CL. 43).

SER. NO. 78-757,385, FILED 11-18-2005.

FIRST USE 11-1-1987; IN COMMERCE 1-1-1988.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

REBECCA GILBERT, EXAMINING ATTORNEY